REMARKS

The present invention is an operable device to be used in vehicle control, a method for controlling an operable device and a decision unit coupled to operable device. The operable device includes an operating panel 14 through which a user can cause at least one of producing existing operating states or changing existing operating states of the operable device. A decision unit 15 receives data for determining vehicle-specific conditions over a time period of vehicle operation by evaluating received data and converts the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle and blocks or releases existing operating states of the operable device based on the driving profile or as a function of the driving speed. The use of driving profiles by the invention is described in paragraph [0024] of the specification. Moreover, fluctuation of driving speed of the vehicle over a time period may be used for the blocking of operating states or releasing of operating states of the operable device based on the measured fluctuation. See paragraphs [0016] - [0022] of the Substitute Specification. Paragraph [0024] of the Substitute Specification discusses that the driving profile is based upon values received from the sensors 17 such as the speed sensor 17.1.

The decision unit 15 is described in paragraph [0015] of the Substitute Specification as acting as a threshold switch responsive to speed values from the sensor 17.1 which, when dangerous operation is detected, such as operation above 130 kilometers per hour, a data signal blocks the operation of the operating panel on the car radio 12 and prevents telephone calls from being made in the vehicle.

Claims 9-24 stand rejected under 35 U.S.C. 103 as being unpatentable over U.S. 5,027,432 (Skala, et al.) in view of U.S. Patent 6,393,301 (Oda). These grounds of rejected are traversed for the following reasons.

Each of rejected independent claims 9 and 10 and newly submitted claims 25 and 26 substantively recite the reception of data for determining vehicle-specific conditions over a time period of vehicle operation by evaluating the received data. Moreover, independent claims 9, 25 and 26 further recite converting the vehicle-specific conditions into driving profile indicating an actual driving situation of the vehicle. Moreover, claims 9 and 25 recite the blocking or releasing of existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on a basis of the driving profile. Finally, claim 10 recites blocking or releasing the existing operating states of the operable device based on the measuring fluxuation of the driving speed of the vehicle. It is submitted that none of these limitations is taught by the proposed combination Skala and Oda.

Skala discloses a motor vehicle radio with an automatic volume control which stores a volume of reproduction to be used utilized for different driving speeds of the vehicle and further automatically utilizes the stored volumes for different vehicle speeds for producing a corresponding volume signal between the stored volume signal and the next speed with an associated volume signal. See column 4, lines 34-42.

The Examiner states that "Skala teaches a controlled circuit, coupled to the operating panel, which receives data for determining vehicle-specific

conditions over a time period of vehicle operation by evaluating the received data". This conclusion is traversed regarding determining vehicle-specific corrections over time. Instead as is clear from column 4, lines 43-60, Skala et al., store volume signals corresponding to speeds such 30, 50, 75 and 100 kmh per hour which are read out and used to set the volume control when the vehicle is sensed to have reached one of those speeds. In other words, the momentary sensing of the volume of the radio at the speeds of 30, 50, 75 and 100 kmh is stored which is then used to set the radio when those particular speed plateaus are reached which results in the radio volume being set until the next speed plateau is reached.

It is submitted that a person of ordinary skill in the art would not consider this operation to meet the claimed determining vehicle-specific conditions over a period of the vehicle operation since as described above, the sensing taught by Skala, et al. is purely momentarily associated with a particular speed within a group of speeds at which the radio volume is to be stored for purposes of later setting the radio volume when that speed is again reached. Accordingly, Skala, et al. does not teach the claimed determining of vehicle specific conditions over a period of time as recited in claims 9, 10, 25 and 26.

Moreover, the Examiner's statement that Skala "converts the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle and changes the existing operating states of the operable device according to whether actual driving situation has meet the condition specified in the driving profile" is submitted to be erroneous. Column 4, lines 3-5 state

"[t]hereafter, the same volume or different volume can be set manually for another vehicle speed, and momentary-context which 18 is again actuated, so that this process repeats itself". The description of stored volumes being reset beginning in column 4, lines 34-56 with examples being given at speeds 30, 50, 75 and 100 kmh is submitted to not suggest to a person of ordinary skill in the art the claimed conversion of the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle as recited in claim 9 and further does not suggest to a person of ordinary skill in "converting the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle" as recited in newly submitted claims 25 and 26.

Moreover, it is submitted that the Examiner's citation of column 2, lines 7-21 and column 4 lines 9-14 for teaching a control that blocks or releases the existing operating state of an operable device according to whether an actual driving situation is considered dangerous or non-dangerous is misplaced. What Oda teaches is the blocking or releasing of existing operating states of an operable device. The transmitter transmits a mode switch signal indicating a driving state and when the speed of vehicle is lower than a predetermined speed the wireless transmitter transmits a mode switch signal indicating a stop state and for a higher speed indicating a driving state. The two predetermined modes are selectable from a communication mode that makes a normal telephone function active, a phone-answering mode that makes an automatic answering function active and a suspending mode that makes both a normal telephone function and the automatic answering function inactive as

taught in column 2, lines 7-21. This disclosure does not suggest to a person of ordinary skill in the art operable states according to whether the driving situation is dangerous or non-dangerous. See column 2 lines 22-28 wherein a first mode is described as being selected when the mode switch signal indicates a driving state with "[p]referably, the first mode is one selected for the phone-answering mode and the suspending mode". It is therefore seen that the phone may either be active or suspended during driving. However there is no indication of the detection of a dangerous operation of the vehicle that is the determination between a normal telephone function and the suspending mode. Accordingly it is submitted that Oda, et al. would not suggest to a person of ordinary skill "blocking or releasing the existing states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on the basis of the driving profile" as recited in claim 9 and claim 25.

If the Examiner persists in the stated grounds of rejection, it is requested that he point out where in the aforementioned portions of Oda, et al. there is a discussion of dangerous or non-dangerous driving situations being detected as would be understood by a person of ordinary skill in the art.

Moreover Oda, et al., like Skala, et al. does not teach the determining of vehicle-specific conditions over a time period of vehicle operation by evaluating the received data as recited in each of the independent claims and further converting the vehicle-specific conditions into a driving profile as recited in claims 9, 25 and 26. A person of ordinary skill in the art would not

consider Oda's teaching of receiving data over a period of time pertaining to vehicle-specific conditions and the conversion thereof into a driving profile.

Oda, et al. merely discloses blocking or releasing the states of a radio telephone predicated upon a detector detecting the on-off state of an ignition key. These detected events do not involve the detection of information over period of time as claimed.

Accordingly, it is submitted if the proposed combination were made, the subject matter of independent claims 9 and 10 and furthermore newly submitted claims 25 and 26 would not be achieved.

The dependent claims 11-24 define further aspects of the present invention which are neither anticipated which are not rendered obvious by the proposed combination of Skala, et al. and Oda, et al.

In view of the foregoing amendments and remarks, it is submitted that each of the claims in the application is in condition for allowance. Accordingly, early allowance thereof is respectfully requested.

To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. §1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (1117.40456X00) and please credit any excess fees to such Deposit Account.

Respectfully submitted,

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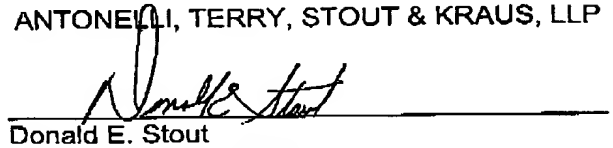

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